IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. :	10/698,659	Confirmation No.	4437
Applicant :	James A. Leistra et al.		
Filed :	10/31/2003		
TC/A.U. :	1762		
Examiner :	Elena Tsoy		
Docket No.:	03-292		
Cust. No. :	34704		

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

Reply Brief

Dear Sir:

This brief is submitted in reply to the Examiner's Answer which was mailed on April 8, 2009.

The Examiner in her answer now states that there are two possible interpretations of Cadaval '806, and then reasons that her interpretation is the more logical. The asserted interpretation is that the porosity of the layer starts at any porosity in the 40-70% range and that the gradient of 5-15% per 1µ would then be enough to get the porosity below 20%. The Examiner does not indicate where this teaching leads a person skilled in the art to conclude that porosities of less than 20% are reached, and that is because the reference does not teach this. Column 5, lines 35-40 of Cadaval '806 teach that "porous layers of electrode material are produced with porosity 40-70%, decreasing in the direction to the surface of the CEM with a gradient of porosity S-1 between 5 and 15% per 1 micron. This is an improvement over the prior art teaching explained in Cadaval '806 at column 4, lines 33-44, where it is taught to the person of skill in the art that low and uncontrolled porosity of the electrode material causes problems, and that this low and

uncontrolled porosity is about 35%. It is submitted that this clearly teaches away from any gradient which could reach 20% as assumed and guessed at by the Examiner. All rejections rely upon an interpretation of Cadaval '806 that the layer reaches a porosity of 20% or less, and this interpretation is simply not supported by Cadaval '806. Since all rejections rely upon this flawed interpretation, all rejections should be reversed.

It is believed that no fee is due in connection with this paper. If any such fee is due, please charge same to deposit account 02-0184.

Respectfully submitted,

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Date: June 8, 2009
edings Appendix - None